

## REMARKS

### Present Status of Application

The Examiner is thanked for the thorough examination of the present application and the withdrawal of the previous rejections. The Office Action, however, continued to reject all pending claims 20-23 and 25. More specifically, claims 20, 22, 23 and 25 stand rejected under 35 U.S.C 102(b) as allegedly anticipated by Shirachima et al (US patent Number 6,275,465). In addition, claim 21 is rejected under 35 U.S.C 103(a) as allegedly unpatentable over Shirachima et al, in view of Ota et al (US patent number 6,721,263).

In response, Applicant respectfully requests that all rejections be reconsidered and withdrawn for at least the reasons set forth herein.

### Discussion of Office Action Rejections

The Applicants respectfully traverse all rejections for the reason below.

Independent claim 20 recites:

20. A disk-anchoring device of an optical disk device, comprising:  
a substrate;  
**a clamper frame** for holding a clamper, pivoted on said substrate  
and **having a first protrusion portion**;  
a sliding element, movably mounted on said substrate and having an inclined portion and a second protrusion portion;  
wherein, when said sliding element is moved on said substrate, said first protrusion portion is relatively moved along an inclined surface of said inclined portion so as to swing said clamper frame;  
wherein, after a disk is loaded into the optical disk device, said second protrusion portion abuts and pushes said first protrusion portion.

*(Emphasis added)*. Independent claim 20 patently defines over the cited art for at least the reason that the cited art fails to disclose at least the features emphasized above.

As reflected above, the claimed disk-anchoring device of claim 20 comprises a substrate, a clamper frame and a sliding element. In addition, claim 20 expressly defines that the clamper frame has the first protrusion portion, and the sliding element has an inclined portion and a second protrusion portion. In other words, the first protrusion portion is disposed on the clamper frame, so that, as the sliding element is moved on the substrate, the first protrusion portion on the clamper frame can be moved relatively along the inclined portion on the sliding member. Therefore, the first protrusion portion serves to swing the clamper frame.

In addition, the first protrusion portion and the second protrusion portion are disposed on different elements, clamper frame and sliding element, so that the second protrusion portion can abut and push the first protrusion portion after a disk is loaded into the optical disk device.

As to claim 20, the Office Action alleged that Shirashima et al discloses a disc clamping mechanism comprising a substrate (item 23), a clamper frame (item 26) and a sliding element (item 33). Further, the Office Action alleged that the clamper frame has a first protrusion portion (item 23f), and the sliding element has an inclined portion and a second protrusion. Applicant respectfully disagrees.

In this regard, item 23f, which the Examiner alleged as the first protrusion portion, is not disposed on the clamper frame. Referring to figure 2 and col. 5, lines 4-11 of the Shirashima et al patent, item 23f is disposed on the drive chassis (Item 23, which the Examiner alleged as the substrate). In operation, the control piece 23f and the control pin 32 formed on the drive chassis 23 are inserted in the restriction grooves 33a and 33c of the switching member 33, and they are arrested at the position shown by the

symbols P1, P2 in FIG. 1A. Therefore, the whole disk drive unit 22 is in a restricted state. [see col. 7, lines 15-24]

As a disk is loaded into the disk drive unit 22, the switching member 33 is moved in Y1 direction. At this time, the restriction grooves 33a and 33c of the switching member 33 are shifted against the control piece 23f and the control pin 32, and the control piece 23f and the control pin 32 sit at the positions indicated by the symbols P3, P4 in FIG. 1B, where the CD player goes into the clamper state of the disk D. Further, after completing the clamp, the switching member 33 is shifted further in the Y1 direction, the control piece 23f and the control pin 32 slip out from the restriction grooves 33a and 33c, and the disk drive unit 22 goes into a state to be elastically supported by the elastic support members 31. [see col. 7, lines 45-58]

Therefore, the control piece 23f on the drive chassis 23 is worked with the restriction grooves 33c of the switching member 33 for adjusting the position of the drive chassis 23 not for swinging the clamper frame.

Significantly, Shirashima et al fails to disclose a first protrusion portion which is provided on the clamper frame and is pushed by a second protrusion portion of the sliding element after a disk is loaded into the optical disk device. Therefore, Shirashima et al fails to disclose all of the claimed elements of claim 20. As such, Shirashima cannot properly anticipate claim 20 and the rejection thereof should be withdrawn. As claims 21-23 and 25 depend from claim 20, they patently define over Shirashima et al for at least the same reason.

As a separate and independent basis for the patentability of claim 21, the Office

Action rejected claim 21 under 35 U.S.C. § 103(a) as allegedly unpatentable over Shirashima in view of Ota. Applicant submits that the combination of Ota and Shirashima does not render the claims obvious. In this regard, the Office Action combined Ota with Shirashima to reject the claims on the solely expressed basis that “it would have been obvious ... so as to attract the turntable to clamp the disk.” (see e.g., Office Action, p. 4)

This rationale is both incomplete and improper in view of the established standards for rejections under 35 U.S.C. § 103.

In this regard, the MPEP section 2141 states:

Office policy has consistently been to follow Graham v. John Deere Co. in the consideration and determination of obviousness under 35 U.S.C. 103. As quoted above, the four factual inquiries enunciated therein as a background for determining obviousness are briefly as follows:

- (A) Determining of the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

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#### BASIC CONSIDERATIONS WHICH APPLY TO OBVIOUSNESS REJECTIONS

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

The foregoing approach to obviousness determinations was recently confirmed by the United States Supreme Court decision in *KSR INTERNATIONAL CO. V. TELEFLEX INC.* 550 U.S. \_\_\_\_ (2007)(No. 04-1350, slip opinion, p. 2), where the Court stated:

In *Graham v. John Deere Co. of Kansas City*, 383 U. S. 1 (1966), the Court set out a framework for applying the statutory language of §103, language itself based on the logic of the earlier decision in *Hotchkiss v. Greenwood*, 11 How. 248 (1851), and its progeny. See 383 U. S., at 15–17. The analysis is objective:

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” *Id.*, at 17–18.

Simply stated, the Office Action has failed to at least (1) ascertain the differences between prior art and the claims in issue; and (2) resolve the level of ordinary skill in the art. Furthermore, the alleged rationale for combining the two references (i.e., to attract the turntable to claim the disk) embodies clear and improper hindsight rationale. For at least these additional reasons, Applicant submits that the rejections of all claims are improper and should be withdrawn.

### **Conclusion**

Accordingly, Applicants respectfully submit the claim 20-23 and 25 to overcome the rejections. Specifically, the present application cannot be anticipated by Shirashima et

al. In view of foregoing, it is believed that all pending claims are in proper condition for allowance.

No fee is believed to be due in connection with this amendment and response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

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